

REMARKS

I. Office Action Summary

In the Office Action mailed January 23, 2008, (1) a terminal disclaimer is requested for a double patenting rejection of the instant application over co-pending application 11/415,845; and (2) claims 1, 3-11, and 16-25 were rejected under 35 USC 103(a) as being unpatentable over Reuter, U.S. Pub. No. 2002/0049666, in view of Mott, U.S. Patent No. 7,161,907, and Zornack, U.S. Patent 6,731,680.

II. Status of the Claims

Though a double patenting rejection has been applied to the present case (indicating knowledge of the related case), Applicant again reminds the Office that the present application is a parent of commonly assigned U.S. Patent Application Serial No. 11/415,845. Applicant respectfully requests the Examiner to review the claims and the prosecution history of the related application as it contains common subject matter.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests that each claim in the present application be examined according to the language of the claim and the prior art as set forth in the MPEP and not importing statements made by the Applicant in the prosecution of any related application.

III. Terminal Disclaimer

Applicant respectfully requests the Examiner to hold the double patenting rejection in abeyance until the application is otherwise deemed allowable. Applicant also requests withdrawal of the double-patenting type rejection at that time to permit the application to issue as a patent as required by MPEP 804(I)(B) (See page 800-19).

IV. Rejection under 35 U.S.C. 103(a)

As noted above, Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Reuter in view of Mott and Zornack.

Reuter describes a computerized method and system for providing streamlined and responsive communications for OTC trading over a distributed network, such as the Internet. (See Reuter's ¶ [0003]). The performance of the computerized trading system may be improved by using logically separate communication channels to exchange different types of data. (See Reuter's ¶ [0011]). Bandwidth allocation and processing resources can then be optimized for a particular channel.... Id. A trading system handling OTC trades may separate data into a first channel for indicative data and a second channel for exchange of trading commands.... (See Reuter's ¶ [0012]). Indicative data may include bid and offer data.... (See Reuter's ¶ [0013]).

However, Reuter does not describe using *two different modes of transmission* for distributing market information over *a communication link* in an electronic trading environment, per Applicant's independent claim 1. Additionally, Reuter does not specifically describe a first mode of transmission that comprises, "sending a new market update message from the electronic market when a change in a market order book is detected" or a second mode of transmission that comprises, "sending a new market information snapshot at predetermined time intervals." For example, the Office Action contends that Reuter's description of "indicative data" at [0013] discloses Applicant's claimed "second mode of transmission," which comprises "sending a new market information snapshot at predetermined time intervals." But, Reuter's description of "indicative data" merely describes what underlying information is provided (e.g., bid and offer data). It does not mention how the bid and offer data is sent – that is, it makes no mention of "sending a new market information snapshot *at predetermined time intervals*."

Mott relates to a system and method for enabling dynamic rate flow control between two communicating entities. (See Mott's col. 1, lines 6-8). An originating entity sets requested and target rates of communication within a communication sent to a destination entity. (See Mott's Abstract). Through a feedback process, the destination entity reports the target rate, and possibly the requested rate, back to the originator, which may accept and implement a reduced rate of communication, select a different communication channel, etc. Id.

Regardless of whether Mott discloses what the Office Action contends on page 4, Mott fails to remedy the deficiencies of Reuter for at the reason that Mott also does not describe using

two different modes of transmission for distributing market information over a communication link in an electronic trading environment, per Applicant's independent claim 1. Additionally, Mott fails to describe using the specific modes of transmission set forth in Applicant's claimed invention – that is, a first mode of transmission that comprises, “sending a new market update message from the electronic market when a change in a market order book is detected” and a second mode of transmission that comprises, “sending a new market information snapshot at predetermined time intervals.”

Zornack relates to the telecommunication field, and pertains to a method of changing from a first transmission path and/or transmission mode to a second transmission path and/or mode. (See Zornack's col. 1, lines 10, and 39-44).

However, Zornack too fails to remedy the deficiencies of Reuter. Zornack's description makes no mention of the specific, claimed modes of transmission used to distribute market information over a communication link in an electronic trading environment. For example, Zornack does not teach or suggest “selecting a first mode of transmission...wherein the first mode of transmission comprises sending a new market update message from the electronic market when a change in a market order book is detected” and then dynamically switching to “a second mode of transmission” when the bandwidth limit for the communication link is reached, where the second mode of transmission comprises “sending a new market information snapshot at predetermined time intervals. As such, Zornack fails to disclose Applicant's claimed modes of transmission or even how to apply the modes of transmission when the bandwidth limit is reached. As stated above, both Reuter and Mott fail to remedy this deficiency in the cited art.

Accordingly, the cited art fails to teach or suggest using both of the specific first and second modes of transmission claimed by Applicant to distribute the market information over a communication link. As stated above, none of the references teach or suggest dynamically switching between “...sending a new market update message from the electronic market when a change in a market order book is detected” and “...sending a new market information snapshot at predetermined intervals.” Additionally, the cited art fails to teach or suggest *how* to apply these claimed modes of transmission to distribute the market information in the manner claimed by Applicant. For example, without hindsight bias of Applicant's own claimed invention, one of ordinary skill in the art would not glean from the cited references *what* specific modes of transmission to use to distribute the market information, *when* to switch between the claimed

modes of transmission, and *why* one of ordinary skill in the art would use one claimed mode of transmission versus another claimed mode of transmission.

Independent claim 16 recites similar features as claim 1 and is patentable for at least the reasons that claim 1 is patentable. The dependent claims are patentable for at least the same reasons that there independent base claims are patentable.

V. Conclusion

All the stated grounds of rejection have been respectfully traversed, accommodated, or rendered moot. Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Mark Triplett at 312-476-1151, or the undersigned attorney or agent.

Respectfully submitted,

Date: July 22, 2008

By: /Thomas J. Loos/
Thomas J. Loos
Reg. No. 60,161